IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

CRP.No. 163 of 2007()

OPELE.629/2002 of ADDL.D.C. ,ALAPPUZHA.
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REVN. PETITIONER: RESPONDENT

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, HARIPPAD, REPRESENTED BY
ITS MANAGING DIRECTOR.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENT: PETITIONER

NASEEMA M.,
PULIMOOTTIL, CHINGOLI P.O.

BY ADV. SRI.K.S.DILIP

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.163 of 2007

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Dated this the 28th day of November, 2007.

ORDER

This revision petition is preferred against the order of the Additional District Judge, Alappuzha in O.P.(E.A.)No.629 of 2002. By the award, the court has granted an additional compensation of Rs.58,295/-. A perusal of paragraph 6 of the award would reveal that the court has taken into consideration the ruling of the Full Bench in **Kumba Amma** v. **K.S.E.B.** - 2000(1) K.L.T. 542. In the decision reported in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1, the Apex Court held that the cases have to be decided on the facts and circumstances of each case and therefore set aside the awards and the matters were remanded to the High Court. The Supreme Court held as follows:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be

> determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

In the light of the said enunciated principles, the case may require additional documentary as well as oral evidence, since each case has to be considered on the facts of the case bearing in mind the guidelines laid down by the Supreme Court.

2. Therefore, the order under challenge is set aside and the matter is remitted back to the court below for fresh consideration after affording equal opportunities to both sides for adducing evidence in support of their respective contentions. Parties are directed to appear before the court below on 2.1.2008.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 28/11